

Amendment and Response
Applicants: Giovanni Rolando et al.
Serial No.: 10/626,292

Attorney Docket: SBC1003USC3

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REMARKS

Claims 1 to 13 are pending. Claims 1 to 7 are original. Claims 8 to 13 are new. The application as filed supports all changes to the claims. Claim 3 is objected to and indicated to be allowable if properly rewritten. The Office Action Summary, PTOL-326, lists claims 1, 2 and 4 to 7 as rejected, but the body of the Office Action does not refer to claim 7. Applicants assume that claim 7 is rejected on the same grounds as claims 5 and 6, and so treat claim 7 in this Response.

Claim Rejection under 35 U.S.C. § 102

Claims 1 and 2 are rejected under 35 U.S.C. § 102(b) as anticipated by U.S. Patent No. 5,843,120 to Israel, et al. ("Israel"). Applicants respectfully traverse the Examiner's rejection. It is fundamental that in order for a reference to anticipate it must disclose or teach all limitations of the claims.

The Examiner appears to be misreading either the present application or Israel. The present claims are directed to a stent having "first, second and third annular segments, each annular segment defining a plurality of peaks and valleys." The claims further require "the first and third annular segments being in phase and the second annular segment being 180° out of phase with the first and third annular segments such that the peaks of the first annular segment extend toward the second annular segment and are aligned longitudinally with the valleys of the second annular segment and the peaks of the third annular segment" and "each bridge element of the first plurality of bridge elements being connected between a valley of the first annular segment and a longitudinally adjacent peak of the second annular segment and each bridge element of the second plurality of bridge elements being connected between a peak of the second annular segment and a longitudinally adjacent valley of the third annular segment." This claimed structure is illustrated, for example, in FIG. 3 of the present application. In

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particular, with reference to the first three annular segments beginning at the left side of FIG. 3 it can be seen that bridge elements 3 connect between valleys of the first segment and peaks of the second segment and that bridge elements 4' connect between peaks of the second segment and valleys of the third segment as required by the claims.

Contrary to the Examiners assertion, the stent disclosed in FIG. 2 of Israel does not anticipate claims 1 and 2. Specifically, with reference to the first three complete meander patterns (11o, 11e, and 11o) beginning at the left side of FIG. 2 and assuming that those meander patterns are equivalent to annular segments, it can be seen that the connecting structure between the first and second meander patterns (11o and 11e) is connected between peaks of the first meander pattern (11o) and valleys of the second meander pattern (11e) contrary to the requirements of claims 1 and 2. The Examiner appended a marked up copy of FIG. 2 of Israel to support his rejection of claims 1 and 2. However, the Examiner did not correctly or consistently label the drawing. Specifically, the Examiner: (1) labeled a peak of the first meander pattern (11o) as a valley; (2) labeled a valley of the second meander pattern (11e) on the left side as a peak; and (3) inconsistently labeled as peaks the undulations on both sides of the second meander pattern (11e). The Examiner is respectfully reminded that claims 1 and 2 require that the "peaks of the first annular segment extend toward the second annular segment" and align "longitudinally with the valleys of the second annular segment and the peaks of the third annular segment". Therefore, the structure that the Examiner points to as connecting between a valley of the first meander pattern (11o) and a peak of the second meander pattern (11e) actually connects between a peak of the first meander pattern and a valley of the second meander pattern. Thus, the stent disclosed in FIG. 2 of Israel does not anticipate claims 1 and 2. None of the rest of

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the disclosure of Israel anticipates the present claims. Withdrawal of this ground of rejection is solicited.

Claim Rejections under 35 U.S.C. § 103

Claims 5 and 6 are rejected under 34 U.S.C. § 103(a) as unpatentable over Israel in view of U.S. Pat. No. 6,217,608 to Penn, et al. ("Penn"). Applicants assume that claim 7 is intended to be included in this ground of rejection. Applicants respectfully solicit withdrawal of this ground of rejection as unsustainable.

Israel has been discussed above with respect to claims 1 and 2 and that discussion is incorporated herein as equally pertinent. Penn does not disclose or suggest the limitations missing from Israel with respect to claims 5 to 7. Because the teachings of Israel are insufficient, as discussed above, and because Penn adds nothing in overcoming the deficiencies of Israel, the rejection over Israel in view of Penn is unsupportable and must be withdrawn.

Claim 4 is rejected under 34 U.S.C. § 103(a) as unpatentable over Israel. Applicants respectfully solicit withdrawal of this ground of rejection as unsustainable.

Israel has been discussed above with respect to claims 1, 2 and 5-7 and that discussion is incorporated herein as equally pertinent. The teachings of Israel are insufficient, as discussed above, and a proposed modification in size of the stents of Israel adds nothing to render obvious the present claims. Withdrawal of this ground of rejection is solicited.

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CONCLUSION

In view of the entry of the present amendments to the claims and Applicants' remarks, all of the claims of record are seen to be in condition for allowance. Reconsideration, withdrawal of the rejections, and passage of the case to issue is respectfully requested.

If any additional fees are due in connection with the filing of this paper, please charge the fees to our Deposit Account No. 16-2312. If a fee is required for an extension of time under 37 C.F.R. § 1.136 not accounted for above, such an extension is requested and the fee should also be charged to our deposit account.

Respectfully submitted,

Date: 10/14/04

By



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